



Billing Code 6325-63

OFFICE OF PERSONNEL MANAGEMENT

5 CFR 890

RIN: 3206-AN33

Federal Employees Health Benefits (FEHB) Program: FEHB Employee Premium Contributions for Employees in Leave Without Pay or Other Nonpay Status

AGENCY: U.S. Office of Personnel Management.

ACTION: Proposed rule; withdrawal.

SUMMARY: The United States Office of Personnel Management (OPM) is withdrawing a previously published Notice of Proposed Rulemaking (NPRM) that would have amended the Federal Employees Health Benefits (FEHB) regulations at 5 CFR Part 890 to provide flexibility to agencies regarding payment for FEHB coverage for employees entering leave without pay (LWOP) or any other type of nonpay status, except when nonpay is as a result of a lapse of appropriations. The regulation also would have affected employees who have insufficient pay to cover their premium contribution, and certain categories of employees were exempt.

DATES: OPM is withdrawing the proposed rule published August 30, 2016 (81 FR 59518) as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Julia Elam, Program Analyst at (202) 606-0004.

SUPPLEMENTARY INFORMATION: On August 30, 2016, OPM published an NPRM (81 FR 59518) that would complement the FEHB Modification of Eligibility final regulation (79 FR

62325, published on October 17, 2014) which allows generally for certain temporary, intermittent and seasonal employees to enroll in the FEHB Program if they are expected to work at least 130 hours per month for at least 90 days. In the NPRM, OPM recognized that the expansion of eligibility for FEHB coverage may impact an agency's budget due to the required FEHB Government health benefit contributions for newly eligible employees who elect to participate in FEHB coverage and go into LWOP or other nonpay status based on the intermittent nature of the work performed. The NPRM would have provided flexibility to agencies regarding payment for FEHB coverage for employees entering leave without pay (LWOP) or any other type of nonpay status, except when nonpay is as a result of a lapse of appropriations.

OPM received comments from Federal employees, Federal agencies, a Federal shared service provider, and unions representing Federal employees. The majority of commenters objected to the regulation based on concerns that the rule would place an undue financial burden on Federal employees on LWOP or other nonpay status and would make it difficult for these employees to maintain health insurance. OPM also received comments about the impact of the rule on Permanent Seasonal Employees (PSEs). The commenters stated that PSEs are placed in nonpay status annually and there is a reasonable expectation that these employees will return to employment and repay the unpaid premiums that have been incurred as a debt.

In reviewing these objections, OPM attempted to determine whether the potential cost savings from this proposed rulemaking outweighs the negative impact asserted by commenters. To estimate cost savings, OPM requested the current amount of unrecoverable premium debt from employees on LWOP and nonpay status from several agencies with large numbers of temporary, seasonal and intermittent employees. However, these agencies were generally unable

to provide this data. Agencies do not have reliable data on unrecoverable FEHB debt because, due to constantly changing circumstances, these amounts are difficult to track. OPM did obtain one estimate of unpaid FEHB debt or FEHB debt in default for all employees on seasonal and intermittent Schedules in LWOP or insufficient pay for one agency for FY2016. The agency reported that total FEHB debt incurred by the agency for these employees was \$1,068,065, but that only \$48,797 of this total debt remained unpaid by employees once they returned to pay (or sufficient pay) status. Further, there are debt collection mechanisms in place to recover the remaining \$48,797.

Agencies must already comply with the Debt Collection Improvement Act (DCIA) of 1996 (DCIA) to collect delinquent debt, including FEHB debt. Therefore, appropriate actions are being taken for the collection of FEHB debt for employees entering leave without pay (LWOP) or any other type of nonpay status. OPM determined that the potential cost savings from this proposed rulemaking does not outweigh the potential negative impact of the undue financial burden or risk of losing health insurance on certain Federal employees.

Withdrawal of this NPRM (81 FR 59518, August 30, 2016) does not preclude the agency from issuing future rulemakings on this issue, nor does it commit the agency to any course of action in the future.

U.S. OFFICE OF PERSONNEL MANAGEMENT.

Kathleen McGettigan
Acting Director.

